

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ABDUL NEVAREZ,) CV-16-7013-LHK
)
PLAINTIFF,) SAN JOSE, CALIFORNIA
)
VS.) JANUARY 30, 2020
)
FORTY NINERS FOOTBALL COMPANY,) PAGES 1-46
LLC,)
)
DEFENDANT.)
)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE LUCY H. KOH
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

FOR THE PLAINTIFF: **BY: GUY BURTON WALLACE**
SCHNEIDER WALLACE COTTRELL
KONECKY WOTKYNs LLP
2000 POWELL STREET, SUITE 1400
EMERYVILLE, CA 94608

FOR THE DEFENDANT: **BY: MARIA M. LAMPASONA**
RANKIN, SHUEY, RANUCCI, MINTZ,
LAMPASONA & REYNOLDS
2030 FRANKLIN STREET, 6TH FLOOR
OAKLAND, CA 94612

APPEARANCES CONTINUED ON THE NEXT PAGE

OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

APPEARANCES CONTINUED:

FOR THE PLAINTIFF:

BY: ANDREW PAUL LEE

GOLDSTEIN, BORGEN, DARDARIAN & HO
300 LAKESIDE DR., STE. 1000
OAKLAND, CA 94612

FOR THE DEFENDANT:
TURNER/DEVCON

BY: RANDALL C. CREECH

O'HARA CREECH LLP
255 WEST JULIAN STREET, SUITE 402
SAN JOSE, CA 95110

1 SAN JOSE, CALIFORNIA

JANUARY 30, 2020

2 P R O C E E D I N G S

3 (COURT CONVENED AT 1:36 P.M.)

4 THE CLERK: CALLING CASE 16-7013. ABDUL NEVAREZ
5 VERSUS FORTY NINERS FOOTBALL COMPANY, LLC.

6 MR. WALLACE: GUY WALLACE FOR PLAINTIFFS, YOUR HONOR.
7 AND WITH ME IS ANDREW LEE.

8 MR. LEE: GOOD AFTERNOON, YOUR HONOR.

9 MS. LAMPASONA: GOOD AFTERNOON, YOUR HONOR.

10 MARIA LAMPASONA ON BEHALF OF THE FORTY NINERS AND THE
11 SANTA CLARA DEFENDANTS.

12 MR. CREECH: GOOD AFTERNOON, YOUR HONOR.

13 RANDY CREECH ON BEHALF OF THIRD PARTY DEFENDANT
14 TURNER/DEVCON JV.

15 THE COURT: OKAY. GIVE ME ONE SECOND.

16 I'M SORRY, WOULD YOU PLEASE STATE YOUR APPEARANCE ONE MORE
17 TIME.

18 MR. CREECH: CERTAINLY.

19 RANDY CREECH ON BEHALF OF THIRD PARTY DEFENDANT
20 TURNER/DEVCON JV.

21 THE COURT: OKAY. THANK YOU.

22 MR. CREECH: CERTAINLY, YOUR HONOR.

23 THE COURT: DO WE KNOW HOW MANY CLASS MEMBERS THERE
24 ARE IN EACH OF THE THREE CLASSES? IS IT EVEN POSSIBLE TO TELL?

25 MR. WALLACE: WITH RESPECT TO THE DAMAGES CLASS,

1 YOUR HONOR, MY RECOLLECTION IS THAT WE HAD ABOUT 4,000 CLASS
2 MEMBERS. WITH RESPECT TO THE (B) (2) INJUNCTIVE RELIEF CLASS,
3 THAT WOULD BE A FAR LARGER NUMBER, THAT WOULD ENTAIL ANYONE WHO
4 HAD, PERHAPS, VISITED THE STADIUM. BEYOND THOSE, WHERE THERE
5 WERE TICKETING RECORDS FOR THE ACCESSIBLE SEATING. AND THE
6 COMPANIONS, I THINK, WOULD BE NON-DISABLED PERSONS. THERE IS
7 THE RECORD OF THE COMPANION SEATING TICKETS, THAT'S TRUE, BUT
8 THAT PROBABLY IS LOWER THAN THE TOTAL MEMBERSHIP OF THAT CLASS.

9 THE COURT: YOU ARE SAYING THE COMPANIONS ARE
10 PROBABLY LOWER THAN THE BROADER INJUNCTIVE RELIEF CLASS.

11 MR. WALLACE: YES.

12 THE COURT: OKAY. BUT WE DON'T HAVE A NUMBER ON THE
13 INJUNCTIVE RELIEF, DO WE?

14 MR. WALLACE: NO, IT'S HARD TO ESTIMATE WITH THE
15 (B) (2), BUT WE KNOW IT WOULD BE MANY.

16 THE COURT: OKAY.

17 AND HOW ARE WE GOING TO KNOW, YOU KNOW, TO WHOM TO SEND
18 THE NOTICE AND HOW TO SEND IT? OR WILL IT BE THROUGH THE SAME
19 NOTIFICATION PROCESS THAT WAS APPROVED PREVIOUSLY, LIKE ALL
20 THOSE PUBLICATIONS AND POSTED NOTICES, IS THAT --

21 MR. WALLACE: YES, THAT'S THE NOTICE PROCESS WE ARE
22 ESSENTIALLY GOING TO USE. AND THEN IN ADDITION, I BELIEVE WE
23 HAVE PUBLICATION IN SOME MAJOR NEWSPAPERS.

24 THE COURT: YOU SAID PUBLICATION IN? I'M SORRY, I
25 COULDN'T HEAR THE LAST THING.

1 MR. WALLACE: MAJOR NEWSPAPERS. AND THOSE SHOULD BE
2 IDENTIFIED IN OUR BRIEF.

3 THE COURT: OKAY. I WOULD PREFER THAT EVERYTHING BE
4 MAILED TO THE SETTLEMENT ADMINISTRATOR VERSUS HAVING, YOU KNOW,
5 OPT-OUTS AND CLAIM FORMS GOING TO THE SETTLE THE ADMINISTRATOR
6 BUT THEN OBJECTIONS GOING TO THE CLERK'S OFFICE.

7 I THINK IT'S JUST MORE SIMPLE FOR THE CLASS TO HAVE
8 EVERYTHING GOING TO THE SAME ADDRESS. IS THAT ACCEPTABLE? IS
9 THAT OKAY?

10 MR. WALLACE: THAT'S ACCEPTABLE TO PLAINTIFFS,
11 YOUR HONOR.

12 THE COURT: OKAY. IS THAT ACCEPTABLE TO THE
13 DEFENDANTS?

14 MS. LAMPASONA: THAT'S FINE, YOUR HONOR.

15 THE COURT: OKAY. SAME FOR DEVCON/TURNER?

16 MR. CREECH: CERTAINLY, YOUR HONOR.

17 THE COURT: OKAY. ALL RIGHT. THANK YOU.

18 NOW WILL EVERYTHING JUST BE DONE BY THE CLASS MEMBERS'
19 DECLARATION OR ARE THE DEFENDANTS GOING TO TRY TO VERIFY
20 WHETHER TICKETS WERE SOLD TO THE CLAIMANTS WHO ACTUALLY
21 PURCHASED TICKETS?

22 MS. LAMPASONA: WE WILL WANT TO DO A CERTIFICATION
23 PROCESS, BUT IT'S NOT GOING TO BE A HUNDRED PERCENT ACCURATE
24 BECAUSE THE CLASS MEMBERS INCLUDE PEOPLE WHO GOT TICKETS THAT
25 WE WOULDN'T HAVE RECORD OF.

1 THE COURT: SURE.

2 MS. LAMPASONA: SO WE ARE GOING TO WANT TO CHECK.

3 THE COURT: TO THE EXTENT YOU CAN.

4 MS. LAMPASONA: EXACTLY, YOUR HONOR.

5 THE COURT: OKAY. RIGHT.

6 BECAUSE I WAS NEXT GOING TO ASK YOU, THERE WILL BE CLASS
7 MEMBERS WHO FACED AN ACCESS BARRIER WHO DIDN'T PURCHASE A
8 TICKET, FOR EXAMPLE, A GUEST OF SOMEONE ELSE. AND I GUESS IN
9 THIS SITUATION, YOU ARE GOING TO JUST RELY ON THE DECLARATION
10 OF THE PERSON WHO FACED THE ACCESS BARRIER; IS THAT RIGHT?

11 MS. LAMPASONA: IT IS.

12 WE WOULD CHECK BOTH THE TICKETING LOGS AS WELL AS
13 COMMUNICATIONS. AND SO IT'S POSSIBLE THAT WE WOULD BE ABLE TO
14 VERIFY THE IDENTITY OF SOME OF THESE PEOPLE IN WAYS OTHER THAN
15 JUST TICKETING, BUT THERE IS GOING TO BE A CERTAIN PERCENTAGE
16 THAT WE WILL HAVE TO RELY ON THE DECLARATION ALONE BECAUSE WE
17 WILL NOT HAVE RECORD OF THAT PERSON EITHER CONTACTING THE TEAM
18 OR PURCHASING THE TICKET.

19 THE COURT: RIGHT. BECAUSE ON THE CLAIM FORM, IT
20 DOESN'T SAY IF SOMEONE ELSE PURCHASED YOUR TICKET, IDENTIFY
21 THAT PERSON.

22 MS. LAMPASONA: IT DOES NOT.

23 THE COURT: RIGHT. SO YOU WILL NEVER BE ABLE TO
24 VERIFY THAT. OKAY.

25 NOW WHEN YOU TALK ABOUT THE PRO RATA REDISTRIBUTION, IF

1 THERE'S MONEY LEFT, I ASSUME THAT WILL ONLY GO TO CLASS MEMBERS
2 WHO SUBMITTED CLAIM FORMS; IS THAT RIGHT?

3 MR. WALLACE: THAT WOULD BE CORRECT, YOUR HONOR.

4 THE COURT: OKAY. ALL RIGHT.

5 SO I HAD SOME COMMENTS OR SOME QUESTIONS, AND WANTED TO
6 TALK WITH YOU -- WELL LET ME ASK A QUESTION, DOES THE
7 ATTORNEY'S FEES THAT YOU'VE REQUESTED, DOES THAT INCLUDE FEES
8 FOR MONITORING AND ENFORCEMENT OF THE INJUNCTIVE RELIEF GOING
9 FORWARD?

10 MR. WALLACE: NO, IT DOES NOT. THAT IS SEPARATE,
11 YOUR HONOR.

12 THE COURT: YOU ARE GOING TO BE MAKING A SEPARATE
13 REQUEST?

14 MR. WALLACE: WELL, THERE IS -- DURING THE TIME
15 PERIOD OF THE SETTLEMENT, WHICH IS THREE YEARS OR SO, I BELIEVE
16 THERE IS A SIX-MONTH ANNUAL PROCESS FOR COMPENSATING CLASS
17 COUNSEL FOR MONITORING EFFORTS. AND THEN THERE'S --

18 THE COURT: AND WILL THAT BE A SEPARATE REQUEST THAT
19 YOU WILL MAKE TO THE COURT, OR THAT'S A SEPARATE REQUEST YOU
20 WILL JUST MAKE TO DEFENDANTS?

21 MR. WALLACE: MY THOUGHT WAS THAT WE WOULD MAKE THAT
22 TO DEFENDANTS. I KNOW THAT THERE IS A DISPUTE RESOLUTION
23 PROCESS THAT WOULD BRING THAT BACK TO THE COURT IF THE PARTIES
24 ARE UNABLE TO AGREE ON THOSE. CERTAINLY WE ARE AMENABLE TO
25 HAVING THE COURT REVIEW THOSE AS WELL IF THE COURT BELIEVES

1 THOSE ARE NECESSARY.

2 THE COURT: NO, I DON'T THINK IT IS, I JUST WANTED TO
3 KNOW.

4 OKAY. IS THAT THE DEFENDANT'S UNDERSTANDING AS WELL, THAT
5 IN ADDITION TO WHATEVER THE COURT ORDERS, THE PLAINTIFFS WILL
6 BE COMING TO YOU PERIODICALLY FOR MORE FEES?

7 MS. LAMPASONA: YES.

8 THE COURT: THAT'S YOUR UNDERSTANDING AS WELL? OKAY.

9 MS. LAMPASONA: AND YOUR HONOR, THE SETTLEMENT
10 AGREEMENT DOES CAP THAT AMOUNT AS WELL.

11 THE COURT: AND REMIND ME WHAT THE CAP IS, PLEASE.

12 MS. LAMPASONA: 85,000 ANNUALLY.

13 THE COURT: OKAY. THANK YOU.

14 SO LET ME ASK FOR THE DAMAGES RELIEF CLASS WHY WE NEED TO
15 CHANGE THE END DATE IN THE CERTIFICATION MOTION THAT THE
16 PLAINTIFFS FILED? THE REQUEST WAS TO HAVE IT THROUGH THE
17 COMPLETION OF THE ACTION, BUT NOW WE ARE ADVANCING THAT DATE.
18 CAN YOU JUST EXPLAIN WHY THERE IS THAT DIFFERENCE?

19 MR. WALLACE: IN THE MEDIATION PROCESS, YOUR HONOR,
20 MARTIN RUDY IS THE MEDIATOR ON THIS, AND HE WENT WITH JUST THE
21 STANDARD APPROACH THAT HE USES IN WAGE-AN-HOUR CASES AND OTHER
22 CONSUMER ACTIONS WHICH IS, YOU KNOW, THAT THERE'S A BEGINNING
23 PERIOD FOR THE CLASS, WHICH I GUESS IS THE STATUTE OF
24 LIMITATIONS POINT, AND THEN UP THROUGH PRELIMINARY APPROVAL.

25 AND WE THOUGHT THAT WAS APPROPRIATE. BUT THAT DIDN'T

1 MATCH WHAT WE HAD ORIGINALLY PROPOSED TO THE COURT AND WHAT THE
2 COURT CERTIFIED AT THE CLASS CERTIFICATION STAGE, SO WE WERE
3 PROPOSING THAT SLIGHT MODIFICATION.

4 THE COURT: JUST BECAUSE THAT'S HOW HE DOES IT IN
5 OTHER CASES?

6 MR. WALLACE: WELL, THAT'S ONE REASON. AND THEN I
7 SEEM TO RECALL AS WELL, THAT OUR EXPERT DAMAGES REPORT WAS
8 BASED ON INFORMATION THROUGH 2019.

9 AND SO THAT WAS DERIVED FROM INFORMATION ABOUT WHO
10 PURCHASED THE ACCESSIBLE SEATING AND THE COMPANION SEATING.
11 AND THAT INFORMATION THAT WE HAD WAS FROM DURING THE STATUTE OF
12 LIMITATIONS PERIOD UP THROUGH A DATE IN 2019.

13 AND THAT'S HOW WE DEVELOPED OUR MAXIMUM DAMAGES ESTIMATE
14 WHICH WAS \$70 MILLION. AND SO WE WANTED THE SCOPE OF THE
15 DAMAGES RELEASE TO TRACK WITH WHAT WE HAD DONE IN TERMS OF
16 ESTIMATING THE TOTAL DAMAGES AND WHO WOULD BE GETTING THE
17 SETTLEMENT SHARE OF DAMAGES BASED ON THE ANALYSIS THAT WE DID.

18 THE COURT: OKAY. DO DEFENDANTS WANT TO COMMENT ON
19 THAT THE DIFFERENT END DATE OF THE CLASS?

20 MS. LAMPASONA: WE AGREE THAT THE MODIFICATION MAKES
21 SENSE TO EXTEND IT JUST THROUGH THE DATE OF THE PRELIMINARY
22 APPROVAL.

23 THE COURT: OKAY. ALL RIGHT.

24 THE SORT OF STANDARD HIGHEST CLASS REP AWARD IN SIMILAR
25 CIRCUMSTANCES, USUALLY IN EMPLOYMENT, IS 5,000. I WAS JUST

1 WONDERING WHY HERE, I CAN UNDERSTAND IN EMPLOYMENT BECAUSE
2 THERE'S A RISK THAT NAMED PLAINTIFFS WON'T BE REHIRED, BUT THIS
3 IS REALLY WHETHER A RETAILER WOULD SELL YOU A TICKET. SO IT
4 SEEMS UNLIKELY THAT SOME RETAILER WOULD REFUSE TO SELL A TICKET
5 TO AN EVENT TO A PLAINTIFF BECAUSE THEY WERE REPRESENTATIVES IN
6 THIS CASE.

7 SO WHY WOULD A HIGHER AWARD -- IN EMPLOYMENT CASES, I
8 DEFINITELY UNDERSTAND THE CONCERN, BUT HERE, WHEN YOU ARE
9 BUYING A TICKET, ESPECIALLY ONLINE, FOR EXAMPLE, NO ONE KNOWS
10 WHETHER YOU ARE DISABLED OR NOT, AND THEY ARE NOT LIKELY TO
11 TURN AWAY A CUSTOMER IN A SALE.

12 MR. WALLACE: I DON'T THINK WE DISAGREE WITH THAT
13 ANALYSIS, YOUR HONOR.

14 I THINK REALLY WE ARRIVED AT THAT NUMBER BECAUSE WE FELT
15 THAT OUR PEOPLE HAD PUT IN A SIGNIFICANT AMOUNT OF TIME
16 INVESTIGATING THE FACTS, OBVIOUSLY GOING TO EVENTS, I THINK
17 EVERYONE SAT FOR DEPOSITION.

18 THE COURT: YOU ARE SAYING THEY WENT TO THE STADIUM
19 EVENTS JUST FOR THE LAWSUIT?

20 MR. WALLACE: NO. THAT'S TRUE, YOUR HONOR, THEY WENT
21 TO MANY EVENTS AND CONVEYED ALL THAT INFORMATION TO US. THEY
22 ALSO SAT FOR DEPOSITION.

23 THE COURT: BUT THEY ARE GOING TO GET PAID BY THE
24 EVENT, \$4,000, SO I DON'T UNDERSTAND WHY -- I MEAN, UNLESS THEY
25 WENT TO EVENTS JUST TO LITIGATE, WHY THEY SHOULD GET PAID MORE

1 IN ADDITION TO \$4,000 PER EVENT? THEY ARE GOING TO GET -- THEY
2 PRESUMABLY GOT SOME ENJOYMENT FOR THESE ENTERTAINMENT EVENTS, I
3 ASSUME.

4 MR. WALLACE: WE DON'T DISAGREE WITH THAT AT ALL,
5 YOUR HONOR.

6 IT REALLY -- THE SERVICE AWARD REQUEST HERE REALLY IS
7 BASED UPON THE AMOUNT OF TIME THAT THEY PUT IN, WHICH DID
8 INCLUDE SITTING FOR DEPOSITION, PREPARATION OF DECLARATIONS,
9 THEY DID COME TO ONE OR MORE MEDIATIONS.

10 SO THAT WAS REALLY THE BASIS, RESPONDING TO WRITTEN
11 DISCOVERY, MR. LEE REMINDS ME. SO THEY WERE QUITE ACTIVE
12 PARTICIPANTS. THEY ALSO GAVE US THEIR FEEDBACK ON THE
13 SETTLEMENT AT VARIOUS POINTS.

14 SO WE THOUGHT \$7,500 WAS NOT UNREASONABLE FOR THE AMOUNT
15 OF TIME THAT THEY PUT IN. AND, YOU KNOW, WE WOULD LIKE THE
16 OPPORTUNITY TO TRY AND, YOU KNOW, MAKE THAT PRESENTATION TO
17 YOUR HONOR IN THE MOTION FOR SERVICE AWARDS.

18 THE COURT: AND I WILL WANT IT TO BE SPECIFIC.
19 BECAUSE NOTHING I'M HEARING IS ANY DIFFERENT THAN WHAT
20 EMPLOYMENT PLAINTIFFS DO.

21 EMPLOYMENT PLAINTIFFS ARE DEPOSED, THEY RESPOND TO
22 DISCOVERY REQUESTS, THEY ATTEND THE MEDIATION. LIKE, THE LEVEL
23 OF INVOLVEMENT DOES NOT SOUND ANY DIFFERENT, AND THE RISK OF
24 PEOPLE NOT BEING REHIRED IN AN EMPLOYMENT CASE IS FAR GREATER,
25 SO I JUST WOULD LIKE THAT LAID OUT WITH SPECIFICITY, PLEASE.

1 OKAY. NO KIND OF GENERAL, GENERIC, COMPENSATE FOR THE
2 TIME DECLARATION, PLEASE.

3 MR. WALLACE: WE WILL DO OUR VERY BEST.

4 THE COURT: OKAY. THANK YOU.

5 THANK YOU. OKAY. SO LET ME ASK, IF YOU ADD THE 24
6 MILLION, THE SETTLEMENT FUND WITH THE 13.46 MILLION THAT YOU
7 ARE GOING TO REQUEST IN ATTORNEY'S FEES, IF YOU ADD THAT UP,
8 THAT'S 37.46 MILLION. I DON'T SEE HOW THE 13.46 MILLION IS
9 32.5 PERCENT OF 37.46 MILLION.

10 MR. WALLACE: HOW WE GOT TO THAT, YOUR HONOR, IS WE
11 DID NOT INCLUDE COSTS, WHICH ARE APPROXIMATELY 1.3 MILLION. I
12 THINK IT'S A LITTLE BIT MORE THAN THAT. SO THE FEE COMPONENT
13 WOULD BE 12.0, 12.1, AND WE DIVIDED THAT INTO THE 37.46. AND
14 THAT IS HOW WE ARRIVED AT THE --

15 THE COURT: I'M SORRY, SAY THAT ONE MORE TIME.

16 MR. WALLACE: IT'S ABOUT 12.1 OR 12.05, WOULD BE THE
17 LODESTAR COMPONENT FOR FEES. AND THEN WE DIVIDED THAT INTO THE
18 37.46, AND I RECALL THAT THAT RESULTED IN 32 PERCENT.

19 THE COURT: NO, IF YOU TAKE 13.46 AND YOU DIVIDE THAT
20 BY 37.46, IT'S 36 PERCENT, IT'S NOT 32.5 PERCENT.

21 MR. WALLACE: BUT WITHOUT THE COSTS, IF YOU ARE JUST
22 LOOKING AT THE PERCENTAGE OF THE FEES COMPARED TO THE --

23 THE COURT: OKAY. BUT YOU ARE REQUESTING FEES OF
24 13.46 MILLION.

25 MR. WALLACE: ACTUALLY THAT'S -- WE WEREN'T CLEAR

1 ABOUT THAT. THAT'S FEES AND COSTS OF 13.46, YOUR HONOR. AND
2 THE COSTS AND EXPENSES ARE ABOUT 1.3, SO THE FEE COMPONENT IS
3 ABOUT 12.1.

4 THE COURT: 12.16, YOU ARE SAYING.

5 MR. WALLACE: SOMEWHERE RIGHT IN THERE.

6 IT WILL BE, PERHAPS, A LITTLE BIT HIGHER OR LOWER. I
7 THINK LOWER BECAUSE THERE'S A LITTLE BIT MORE COSTS THAT WE
8 HAVEN'T QUITE FINISHED FULLY ADDING UP AND PAYING.

9 SO THE COSTS ARE A LITTLE OVER 1.3 MILLION.

10 THE COURT: ALL RIGHT.

11 YOU HAD MOVED FOR A TRO TO ENJOIN THE ALTERNATIVE DISPUTE
12 RESOLUTION IN THE FIRST FILED CASE TO PREVENT INJUNCTIVE RELIEF
13 FROM BEING AWARDED OUTSIDE OF YOUR SETTLEMENT.

14 I WOULD NOT REIMBURSE ANY ATTORNEY'S FEES OR COSTS FOR
15 THAT MOTION OF THE TRO. I THINK THAT WAS NOT IN THE INTEREST
16 OF THE CLASS. I WAS VERY DISAPPOINTED TO SEE THAT MOTION, SO
17 I'M NOT GOING TO REIMBURSE THAT. I WANT YOU TO TAKE THAT OUT.

18 MR. WALLACE: WE WILL DO THAT, YOUR HONOR. WE ARE
19 SORRY.

20 THE COURT: FEES AND COSTS.

21 ANY OTHER EFFORTS YOU HAVE DONE TO TRY TO BLOCK AN EARLIER
22 SETTLEMENT IN ANY OF THE OTHER CASES, I WANT ALL OF THAT
23 REMOVED FROM YOUR ATTORNEY'S FEES REQUESTS. I DON'T THINK
24 THAT'S IN THE INTEREST OF YOUR CLASS.

25 IF YOUR CLASS'S INTEREST IS TO GET INJUNCTIVE RELIEF AS

1 QUICKLY AS POSSIBLE SO THAT YOUR CLASS MEMBERS CAN ENJOY THE
2 ENTERTAINMENT EVENTS AT THIS FACILITY, THEN YOU SHOULD BE HAPPY
3 THAT THIS DEFENDANT MAY MAKE THOSE INJUNCTIVE RELIEF CHANGES
4 SOONER RATHER THAN LATER, WHETHER THEY ARE IN THE CONTEXT OF
5 YOUR SETTLEMENT OR IN THE CONTEXT OF ANOTHER SETTLEMENT. I
6 DON'T FEEL LIKE THAT IS IN THE INTEREST OF THE CLASS.

7 MR. WALLACE: WE UNDERSTAND, YOUR HONOR.

8 I THINK OUR CONCERN WAS THAT THEIR INJUNCTIVE RELIEF WOULD
9 BE INFERIOR TO WHAT WE WOULD SEEK AND THAT THEN WE WOULD FACE
10 SOME SORT OF RISK OF PRECLUSION. THAT'S WHY WE DID WHAT WE
11 DID.

12 THE COURT: NO. YOU COULD HAVE GOTTEN ANY
13 SUPPLEMENTAL INJUNCTIVE RELIEF THAT WAS NECESSARY, AND YOU DID
14 NOT PRESENT IT IN YOUR TRO IN THAT WAY. AND I'M NOT GOING TO
15 REIMBURSE ANY FEES AND COSTS.

16 I THINK YOU WERE TRYING TO PROTECT THE ATTORNEY'S FEES AND
17 YOUR OWN SETTLEMENT IN THIS CASE. THAT WAS A FIRST FILED CASE,
18 THAT CASE WAS FILED FIRST. THERE'S NO REASON IT SHOULDN'T HAVE
19 BEEN SETTLED FIRST.

20 SO ANY FEES AND COSTS TO PREVENT EARLY INJUNCTIVE RELIEF
21 FOR THIS CLASS, I DON'T THINK IS IN THE INTEREST OF THE CLASS
22 AND YOU SHOULD NOT BE REIMBURSED FOR IT. FEES OR COSTS. I
23 FEEL ADAMANT ABOUT THAT.

24 MR. WALLACE: WE UNDERSTAND WHAT YOUR HONOR IS
25 SAYING. I DON'T BELIEVE THAT THERE WERE ANY OTHER ACTIONS THAT

1 WE TOOK TO ENJOIN ANY OTHER CASE.

2 THE COURT: ALL RIGHT. SO LET'S GO THROUGH THE
3 FORMS. AND I WOULD LIKE YOU TO FILE NEW ONES. I CAN GIVE YOU
4 REDLINES IF YOU NEED IT, BUT I'M HOPING WE CAN DISCUSS THEM
5 HERE TODAY.

6 SO WITH REGARD TO YOUR CLAIM FORM, I JUST DON'T THINK
7 THERE'S ENOUGH SPACE FOR ANY ANSWERS TO BE WRITTEN IN.

8 SO IF YOU LOOK AT NUMBER 4, "WHAT TYPE OF AN ABILITY/AID
9 DID YOU USE WHILE VISITING LEVI STADIUM?" YOU LEAVE A TINY
10 LINE AND TINY SPACE TO WRITE THAT ANSWER. AND I JUST THINK
11 THAT IT'S TOO TIGHT.

12 SIMILARLY, FOR QUESTIONS 9 AND 10, THERE'S JUST NOT ENOUGH
13 SPACE TO WRITE, HANDWRITE, ANSWERS IN THOSE LINES. SO IF YOU
14 COULD PROVIDE MORE SPACE, PLEASE.

15 I ALSO THINK THAT THE QUESTIONS SHOULD SORT OF FLOW
16 BETTER. SO IF YOU WANT AN IDENTIFICATION OF THE BARRIERS, THAT
17 SHOULD FOLLOW THE QUESTION ABOUT DENIAL OF ACCESS.

18 SO, FOR EXAMPLE, QUESTION 9 SHOULD BE BETWEEN QUESTIONS 5
19 AND 6. SO WHEN YOU ASK, "WHAT ARE THE PHYSICAL BARRIERS THAT
20 YOU EXPERIENCED," IT SHOULD FOLLOW THE QUESTION OF, "WELL, DID
21 YOU EXPERIENCE ANY PHYSICAL ACCESS BARRIERS."

22 AND THEN YOU ASK THE QUESTION, "DID THOSE PARTICULAR
23 BARRIERS CAUSE YOU TO EXPERIENCE ANY DISCOMFORT OR
24 EMBARRASSMENT?" AND THEN WHEN YOU START WITH THE WHOLE SECOND
25 SET OF QUESTIONS REGARDING DIFFICULTIES IN GETTING A TICKET,

1 SIMILARLY, I THINK QUESTION 10 SHOULD BE BETWEEN QUESTION 7 AND
2 8.

3 SO THE FIRST QUESTION 7 WILL BE, "WAS IT DIFFICULT FOR YOU
4 TO CHECK A TICKET FOR WHEELCHAIR ACCESSIBLE SEATING?" THEN
5 QUESTION 10, WHAT IS CURRENTLY QUESTION 10, SHOULD BE, "FOR
6 WHAT YOU'VE IDENTIFIED WAS DIFFICULT, PLEASE DESCRIBE YOUR
7 EXPERIENCE."

8 AND THEN THE NEXT QUESTION SHOULD BE, "WELL, WAS THAT
9 EXPERIENCE ONE THAT CAUSED YOU DISCOMFORT, DIFFICULTY OR
10 EMBARRASSMENT."

11 DO YOU UNDERSTAND? I FEEL LIKE THE WAY THAT IT IS NOW,
12 THE FLOW DOESN'T MAKE SENSE. IT'S NOT POSSIBLE -- LIKE WHY
13 SHOULD I SAY FROM QUESTION 5, GO ANSWER QUESTION 7. WELL, IF
14 YOUR ANSWER IS YES, I JUST FEEL LIKE ALL OF THE PHYSICAL ACCESS
15 BARRIER QUESTIONS SHOULD BE TOGETHER, AND THEN YOU SHOULD GO TO
16 ALL THE TICKETING BARRIERS IN THOSE QUESTIONS.

17 IS THAT ACCEPTABLE?

18 MS. LAMPASONA: THAT'S ACCEPTABLE TO THE DEFENSE.

19 MR. WALLACE: YES.

20 MS. LAMPASONA: YES, YOUR HONOR.

21 THE COURT: OKAY. SO JUST MOVE, PLEASE, QUESTION 9,
22 BETWEEN 5 AND 6, AND PLEASE MOVE QUESTION 10 BETWEEN QUESTIONS
23 7 AND 8. AND JUST PROVIDE A LITTLE BIT MORE ROOM FOR PEOPLE TO
24 PROVIDE AN ANSWER.

25 OKAY. SO IF THOSE CHANGES ARE ACCEPTABLE, I WOULD LIKE

1 YOU TO RE-FILE THE CLAIM FORM. WE WILL GO THROUGH THE REST OF
2 THE DOCUMENTS, AND THEN I WOULD LIKE TO KNOW WHAT YOU THINK,
3 YOU CAN FILE A NEW ONE, OKAY.

4 AND THEN WHAT I WILL DO IN THE PRELIMINARY APPROVAL ORDER,
5 JUST IDENTIFY THE REVISED ONES AND APPROVE THOSE.

6 ALL RIGHT. SO LET'S GO THEN, PLEASE, TO THE SHORT FORM.
7 NOT MANY -- SO ARE YOU TRYING TO KEEP THIS ONE PAGE? BECAUSE
8 RIGHT NOW IT'S ONE PAGE AND CHANGE. BUT I THINK IT'S
9 WORTHWHILE TO HAVE A LITTLE BIT MORE INFORMATION, BECAUSE
10 PEOPLE MAY ONLY LOOK AT THE SHORT FORM AND MAY NOT EVEN GO BACK
11 TO LOOK AT THE LONG FORM, SO IT WOULD BE HELPFUL IF THIS WERE A
12 SELF-CONTAINED DOCUMENT THAT GAVE EVERYONE ENOUGH INFORMATION.

13 SO WITH REGARD TO THE SHORT FORM, I HAVE A COUPLE OF
14 SUGGESTIONS.

15 FOR QUESTION 1, I THINK IT WOULD BE HELPFUL FOR YOU TO
16 NAME THE LAWYERS, SO THAT IF A CLASS MEMBER CALLS, THEY KNOW
17 WHO TO ASK FOR. IT'S A LITTLE BIT DAUNTING TO MAKE JUST A
18 GENERAL REQUEST AND NOT KNOW WHO TO DIRECT YOUR QUESTION TO.
19 SO IF YOU WOULD PLEASE ADD NAMES IN NUMBER 1.

20 AND AS FAR AS NUMBER 3, THE MONETARY AWARD, AND THIS IS A
21 CONCERN I HAVE ABOUT BOTH THE LONG FORM AND THE SHORT FORM, THE
22 DOCUMENTS GIVE THE IMPRESSION, I SHOULD SAY "NOTICE" INSTEAD OF
23 "FORM," THAT AS LONG AS YOU JUST SIGN AND MAIL IN THE CLAIM
24 FORM, YOU ARE AUTOMATICALLY GOING TO GET THE MONETARY AWARD.

25 I THINK THERE SHOULD BE SOMETHING HERE THAT SAYS WHAT YOU

1 HAVE TO DO IN THE CLAIM FORM. IN THE CLAIM FORM, YOU NEED TO
2 IDENTIFY THE BARRIER. I GUESS YOU DON'T HAVE TO PROVIDE ANY
3 TICKETING; IS THAT RIGHT? OH, YOU DO, YOU HAVE TO APPROXIMATE
4 THE DATE AND THE DIFFICULTY AND YOU HAVE TO SAY THAT IT CAUSED
5 YOU DIFFICULTY, DISCOMFORT OR EMBARRASSMENT.

6 I THINK IT WOULD BE HELPFUL TO JUST LET PEOPLE KNOW THAT
7 YOU WILL HAVE TO MAKE THIS KIND OF DECLARATION UNDER PENALTY OF
8 PERJURY AS TO THESE PIECES OF INFORMATION, JUST SO PEOPLE THINK
9 OH, IF I JUST SIGN AND MAIL THIS IN ON TIME, I'M AUTOMATICALLY
10 GOING TO GET THE MONETARY AWARD.

11 ANY OBJECTION TO IDENTIFYING WHAT THE REQUIREMENTS ARE TO
12 GET THE MONETARY AWARD?

13 MR. WALLACE: NO, YOUR HONOR. IT SOUNDS LIKE A GOOD
14 IDEA.

15 MS. LAMPASONA: NO OBJECTION.

16 THE COURT: OKAY. JUST SO PEOPLE KNOW. I DON'T WANT
17 TO CREATE UNREALISTIC EXPECTATIONS EITHER, THAT PEOPLE THINK
18 OH, I CAN JUST SIGN AND DATE IT AND I'M AUTOMATICALLY GOING TO
19 GET MONEY. NO, YOU HAVE TO DO A LITTLE BIT MORE THAN THAT.

20 OKAY. THEN SIMILARLY, SINCE YOU ARE GOING TO CHANGE THE
21 OPTING OUT AND OBJECTIONS FOR EVERYTHING TO BE MAILED TO THE --
22 THIS IS ALL YOU SAY ABOUT OBJECTIONS, "IF YOU DO NOT LIKE ANY
23 PART OF THE SETTLEMENT, THE DEADLINE TO FILE A WRITTEN
24 OBJECTION IS BLANK. THE DETAIL OF NOTICE AVAILABLE ON THE
25 SETTLEMENT WEBSITE EXPLAINS HOW TO OPT OUT OR OBJECT."

1 I GUESS I DON'T UNDERSTAND WHY EARLIER IN THE FIRST
2 SENTENCE OF THAT SECTION YOU SAY, "IF YOU ARE A DAMAGES CLASS
3 MEMBER, YOU MAY EXCLUDE YOURSELF FROM THE DAMAGES CLASS BY
4 MAILING A LETTER TO THE SETTLEMENT ADMINISTRATOR" BY SUCH AND
5 SUCH DATE, "THE LETTER MUST CLEARLY STATE THAT YOU WANT TO OPT
6 OUT OF THE DAMAGES CLASS IN THIS CASE," ET CETERA.

7 I THINK IT WOULD BE A LOT CLEANER THAT YOU PROVIDE THE
8 SAME LEVEL OF INFORMATION ABOUT HOW YOU EITHER OPT OUT OR
9 OBJECT AND WHO THE MAILING GOES TO, VERSUS JUST SAYING, WELL,
10 IF YOU WANT TO FILE AN OBJECTION, YOU GOT TO GO TO ANOTHER
11 DOCUMENT TO GET THE INFORMATION.

12 I FEEL LIKE THIS SHOULD BE A SELF-CONTAINED DOCUMENT,
13 BECAUSE MOST OF THE PEOPLE ARE NOT GOING TO GO BACK AND READ
14 THE LONG FORM. SO IT SHOULD SAY, THIS IS HOW YOU OBJECT, THIS
15 IS HOW YOU OPT OUT, OKAY.

16 YOU KNOW, YOU WANT \$7,500 FOR THE NAMED CLASS
17 REPRESENTATIVES, BUT YOU NEVER IDENTIFY THEM BY NAME IN ANY OF
18 THESE DOCUMENTS. I HAVE NOT SEEN THAT BEFORE. THEIR NAMES ARE
19 NOT ON THE LONG FORM, THEIR NAMES ARE NOT ON THE SHORT FORM.

20 MR. WALLACE: WE HAVE NO OBJECTION TO ADDING THEIR
21 NAMES TO THE NOTICE, YOUR HONOR. THEY ARE ON THE COMPLAINT, SO
22 I THINK IT MAKES SENSE.

23 THE COURT: WELL, I'VE NEVER SEEN A NOTICE THAT
24 DIDN'T HAVE THE NAMED CLASS REPRESENTATIVES, RIGHT. PEOPLE
25 LIKE TO KNOW WHO IS REPRESENTING THEM. THEY LIKE TO KNOW WHO

1 IS GOING TO GET THE ENHANCEMENT AWARD. AND NO ONE IS EVER
2 NAMED IN EITHER OF THESE DOCUMENTS, AND I THINK THAT SHOULD BE
3 ADDED.

4 NOW I WOULD TAKE OUT -- I WOULD LIKE YOU TO TAKE OUT ALL
5 THIS STUFF ABOUT THE ATTORNEYS FEES WILL NOT IN ANY WAY
6 DIMINISH THE DAMAGES FUND, BECAUSE I THINK THAT'S ALREADY BEEN
7 DONE.

8 WHEN THE DEFENDANTS SETTLED, THEY SETTLED TO AN OVERALL
9 AMOUNT. THEY SETTLED FOR 36.46 MILLION. YOU ALL DECIDED HOW
10 TO SPLIT THAT UP. BASICALLY, THE FEES ARE ABOUT HALF, MORE
11 THAN HALF, 60 PERCENT OF WHAT'S GOING TO THE CLASS. THE CLASS
12 IS GOING TO GET 24 MILLION, THE PLAINTIFFS WANT 14 MILLION, SO
13 MORE THAN 60 PERCENT.

14 SO I FEEL LIKE IT'S A LITTLE BIT NOT COMPLETELY ACCURATE
15 TO SAY OH, WELL, DON'T WORRY, YOU KNOW, THERE'S NOT ANY IMPACT
16 ON THE DAMAGES FUND BASED ON THE ATTORNEYS FEES.

17 JUST BECAUSE YOU ALL HAVEN'T NEGOTIATED THAT, DOESN'T MEAN
18 THERE WASN'T AN IMPACT ON HOW MUCH WILL GO TO THE CLASS. SO I
19 WOULD LIKE TO TAKE ALL OF THAT OUT, I DON'T THINK IT'S FULLY
20 ACCURATE.

21 THE DEFENDANTS SETTLED FOR 37.46 MILLION AND YOU ALL
22 NEGOTIATED TO CARVE OUT THE 13.5 MILLION. SO CLASS MEMBERS
23 COULDN'T EVEN GET THAT, COULDN'T EVEN TOUCH THAT, COULDN'T EVEN
24 ASK FOR THAT. I OBJECT TO THAT BEING DONE, BUT I KNOW
25 PLAINTIFFS LIKE TO DO THAT BECAUSE THEY WANT TO MAKE SURE THAT

1 MORE OF THE MONEY GOES TO THE ATTORNEY'S FEES AND LESS TO THE
2 CLASS, AND THEY KNOW IF THEY LEAVE IT OPEN, I WILL TRY TO GIVE
3 MORE TO THE CLASS.

4 SO I DON'T LIKE THE WAY THAT'S DONE, BUT THAT'S NOT A
5 BASIS FOR ME NOT TO APPROVE THIS SETTLEMENT. BUT I'M NOT GOING
6 TO TELL THESE CLASS MEMBERS OH, DON'T WORRY, THE FACT THAT THE
7 CLASS IS GETTING 24 MILLION AND THE LAWYERS WANT 13.5 MILLION,
8 WHICH IS MORE THAN 56 PERCENT OF THE -- WHAT THE CLASS IS
9 GETTING, I JUST -- I DON'T THINK IT'S ACCURATE.

10 I THINK IT'S JUST THAT YOU ALL HAVE NEGOTIATED THAT SO
11 THAT I CAN'T GIVE ANY MORE OF THE MONEY TO THE CLASS. SO I
12 WOULD LIKE THAT DELETED IN NUMBER 7, AND ALSO IN THE LONG FORM.

13 I KNOW PLAINTIFF'S LAWYERS LIKE TO DO THAT TO RESERVE MORE
14 MONEY, SUCH THAT IT CAN'T BE GIVEN TO THE CLASS, SO IT HAS TO
15 BE PAID TO THEM IF I DECIDE TO AWARD IT. AND I DON'T LIKE
16 THAT. I DON'T THINK THAT'S CONSISTENT WITH THE CLASS'S
17 INTEREST TO CARVE OUT MONEY AND SAY IT'S UNTOUCHABLE BY THE
18 CLASS, IT ALL HAS TO GO TO THE DEFENDANT OR TO THE LAWYERS FOR
19 THE PLAINTIFFS. BUT I KNOW CERTAIN PLAINTIFF'S COUNSEL LIKE TO
20 DO THAT.

21 OKAY. LET'S GO, PLEASE, TO THE LONG FORM. I THINK SOME
22 OF THE CHANGES I'VE REQUESTED, I WOULD ALSO LIKE TO BE MADE
23 HERE. AND THAT IS, THE CLASS MEMBERS ARE NEVER MENTIONED BY
24 NAME, THEY ARE NEVER TOLD WHAT THEY WILL HAVE TO DECLARE IN
25 ORDER TO GET THE MONETARY SETTLEMENT.

1 I THINK THAT WOULD BE HELPFUL TO GIVE THEM SOME SENSE OF
2 WHAT INFORMATION THEY WILL HAVE TO PROVIDE IN THE CLAIM FORM,
3 THAT'S NOT ANYWHERE HERE, IT MAKES IT SEEM LIKE YOU SIGN IT,
4 YOU MAIL IT IN TIMELY, YOU ARE AUTOMATICALLY GOING TO GET THE
5 FUNDS. SO I WOULD LIKE THAT CORRECTED, PLEASE.

6 I HAVE SOME NITS IN THIS DOCUMENT, BUT WHAT I WANTED TO --
7 I MEAN, I CAN TELL YOU WHAT SOME OF THESE NITS ARE, BECAUSE I
8 WOULD LIKE YOU TO FILE REVISED ONES.

9 I WILL JUST SAY IN THE FOURTH BULLET, YOU ARE MISSING A
10 WORD. IN THE THIRD LINE OF THE FOURTH BULLET ON THE FIRST
11 PAGE, IT SAYS, "WITH IMPROVED TO THE STADIUM," I THINK "ACCESS"
12 SHOULD BE INCLUDED OR INSERTED BETWEEN "IMPROVED" AND "TO."

13 DO YOU SEE THAT? "SCOOTERS, CANES, WALKERS AND OTHER
14 MOBILITY AIDS WITH IMPROVED TO THE STADIUM." JUST INSERT
15 "ACCESS," PLEASE.

16 AND IN THIS LANGUAGE OF THIS FORM, YOU NORMALLY JUST REFER
17 TO IT AS SETTLEMENT, AND SO I THINK WHERE YOU SAY "MAKE US PART
18 OF THE SETTLEMENT AGREEMENT," YOU SHOULD JUST SAY "AS PART OF
19 THE SETTLEMENT." SO IN THE FIFTH BULLET, I WOULD DELETE
20 "AGREEMENT."

21 SO LET ME JUST GIVE YOU AN EXAMPLE. THAT PARAGRAPH READS,
22 "MEMBERS OF ALL OF THE CLASS, AS CERTIFIED BY THE COURT, WILL
23 BENEFIT FROM THE ACCESS IMPROVEMENTS DEFENDANTS AGREE TO MAKE
24 AS PART OF THE SETTLEMENT AGREEMENT. THEY CANNOT OPT OUT OF
25 THAT PART OF THE SETTLEMENT, BUT CAN OBJECT TO IT IF THEY SO

1 DESIRE. MEMBERS OF THE DAMAGES CLASS, HOWEVER, CAN EXCLUDE
2 THEMSELVES FROM THAT PART OF THE SETTLEMENT AND RETAIN ANY
3 RIGHTS THEY MAY HAVE TO SUE ON THEIR OWN. IN THAT CASE,
4 THOUGH, THEY WILL RECEIVE NO MONETARY COMPENSATION IN THIS CASE
5 AND CANNOT OBJECT TO THE DAMAGES PART OF THE SETTLEMENT
6 AGREEMENT."

7 I JUST FEEL LIKE THE USE OF "SETTLEMENT AGREEMENT" VERSUS
8 "SETTLEMENT" IS INCONSISTENT AND IT MAKES MORE SENSE TO JUST
9 SAY "SETTLEMENT" INSTEAD OF "SETTLEMENT AGREEMENT."

10 I WOULD ADD A COMMA AFTER "THE SETTLEMENT," "THEY CANNOT
11 OPT OUT OF THAT PART OF THE SETTLEMENT," COMMA, "BUT CAN OBJECT
12 TO IT IF THEY SO DESIRE."

13 AND I THINK THAT LAST SENTENCE IS A LITTLE BIT INCOMPLETE.
14 I THINK IN THAT LAST SENTENCE IF WE SAY, "IN THAT CASE, THOUGH,
15 THEY WILL RECEIVE NO MONETARY COMPENSATION IN THIS CASE AND
16 CANNOT OBJECT TO THE DAMAGES PART," I WOULD SAY "OF THE
17 SETTLEMENT IN THIS CASE."

18 OKAY. AND THEN IN YOUR BOX ON PAGE 2, I THINK INSTEAD OF
19 AN INDIVIDUAL SETTLEMENT AWARD AND SUBMIT A CLAIM FORM, JUST TO
20 SAY, "WILL RECEIVE A MONETARY SETTLEMENT AWARD AS PART OF THE
21 SETTLEMENT?"

22 IN EVERYWHERE ELSE, YOU HAVE BEEN CAPITALIZING
23 "SETTLEMENT," LET'S JUST KEEP THAT CONSISTENT. SO IN THIS
24 DOCUMENT AS WELL, ON PAGE 2, IN SOME INSTANCES YOU CAPITALIZE
25 "SETTLEMENT" AND IN SOME CASES YOU DON'T. IF YOU WOULD PLEASE

1 JUST DO A GLOBAL SEARCH, AND WE SHOULD CAPITALIZE IT EVERYWHERE
2 IT'S REFERRING TO THE INSTANT SETTLEMENT THAT'S THE SUBJECT OF
3 THIS MOTION, OKAY.

4 WE ARE MISSING A WORD IN THE OPT OUT BOX. "BY OPTING OUT,
5 YOU WILL MAINTAIN ANY RIGHT YOU MAY HAVE SUE THE DEFENDANTS."
6 I THINK WE NEED A "TO" BETWEEN "HAVE" AND "SUE."

7 I WOULD ADD A COMMA AFTER LEVI STADIUM. AND ADD, "BUT YOU
8 WILL RECEIVE NO PAYMENT FROM THE SETTLEMENT IN THIS CASE." OR
9 I GUESS YOU COULD JUST LEAVE IT "FROM THE SETTLEMENT IN THIS
10 CASE" BECAUSE THEY COULD STILL, I GUESS, BRING THEIR OWN SUIT.

11 "IF YOU TAKE NO ACTION IN THE DO NOTHING ROW," I WOULD ADD
12 A COMMA AFTER THAT, PLEASE. CAPITALIZE "SETTLEMENT" IN THE
13 "OBJECT" COLUMN.

14 AND THIS IS A QUESTION, IT'S NOT A BIG POINT, SOMETIMES WE
15 SAY PART, SOMETIMES WE SAY PORTION. I THINK IN MOST INSTANCES
16 YOU SAY, PART OF THE SETTLEMENT. SO I WOULD JUST RECOMMEND
17 THAT WE KEEP THAT CONSISTENT, PLEASE.

18 NOW, ONE QUESTION I HAVE IS ABOUT THE CLASS DEFINITION.
19 IT'S KIND OF COMPLICATED. SO I'M WONDERING IF WE SHOULD WAIT
20 AND DO THAT IN SECTION 6, BECAUSE IN SECTION 3, IT'S JUST NOT
21 THAT HELPFUL, BECAUSE IT SAYS "THE PEOPLE TOGETHER ARE A CLASS
22 OR CLASS MEMBERS."

23 PEOPLE TOGETHER. THAT'S TOTALLY NOT DEFINED, IT'S NOT
24 GOING TO BE THAT HELPFUL. IF IT'S TOO COMPLICATED TO FRONT
25 THIS DEFINITION OF CLASSES, MAYBE WE JUST KEEP NUMBER 6 AND

1 FIGURE OUT A WAY TO DEFINE THE NAMED CLASS REPRESENTATIVES IN
2 PARAGRAPH 6, AND YOU COULD ALSO NAME THE DEFENDANTS IN
3 PARAGRAPH 6.

4 BUT IT'S JUST -- I HAVEN'T SEEN A NOTICE THAT JUST DEFINES
5 THE CLASS AS THE PEOPLE TOGETHER, IT'S JUST TOO VAGUE.

6 SO ARE YOU OKAY WITH MAYBE COMBINING 3 AND 6? DOES
7 EVERYONE SEE MY POINT ON THAT ONE?

8 MR. WALLACE: YES, YOUR HONOR.

9 THE COURT: THERE ARE ALSO THREE CLASSES, SO MAYBE
10 SAYING PEOPLE ALL TOGETHER AS A CLASS WILL ALSO BE CONFUSING,
11 SO I WOULD SAY LET'S MOVE 3 INTO 6, PLEASE.

12 MS. LAMPASONA: YOUR HONOR, WHEN YOU SUGGESTED THAT
13 THE DEFENDANTS BE IDENTIFIED, THE DEFENDANTS AREN'T -- FOR
14 EXAMPLE, THE DAMAGES CLASS DOESN'T INCLUDE THE CITY OF SANTA
15 CLARA, THE SANTA CLARA STADIUM AUTHORITIES, SO HOW DO YOU
16 SUGGEST THAT WE IDENTIFY THE DEFENDANTS, BUT KEEPING IN MIND
17 THAT NOT ALL THE DEFENDANTS ARE -- APPLY TO EACH CLASS?

18 THE COURT: WELL, IN SECTION 3, YOU JUST SAY THERE
19 ARE THREE DEFENDANTS WHO ARE REFERRED TO AS 49ER DEFENDANTS IN
20 THIS NOTICE AND THEN YOU LIST THE THREE 49ER DEFENDANTS.

21 AND THEN YOU SAY THE CITY OF SANTA CLARA AND THE SANTA
22 CLARA STADIUM AUTHORITY ARE ALSO DEFENDANTS IN THIS LAWSUIT.

23 SO YOU DON'T PROVIDE THAT CLARIFICATION IN WHAT YOU
24 CURRENTLY HAVE EITHER.

25 MS. LAMPASONA: I UNDERSTAND.

1 WHAT I'M ASKING IS, DID YOU WANT US TO DO THAT, OR IS IT
2 MERELY JUST MOVING THE TEXT FROM NUMBER 3 OVER TO NUMBER 6?

3 THE COURT: WELL, NO, WHY DON'T YOU SPECIFY, I THINK
4 IT WOULD BE HELPFUL.

5 WHO ARE THE DEFENDANTS FOR THE DAMAGES CLASS, JUST THE
6 49ER DEFENDANTS?

7 MS. LAMPASONA: YES, YOUR HONOR.

8 THE COURT: OKAY. AND THEN WHO ARE THE DEFENDANTS
9 FOR THE TWO INJUNCTIVE RELIEF CLASSES?

10 MS. LAMPASONA: ALL OF THE DEFENDANTS, BOTH THE
11 FORTY NINERS AND THE SANTA CLARA DEFENDANTS.

12 THE COURT: I THINK YOU CAN JUST SAY EXACTLY THAT.

13 MS. LAMPASONA: OKAY.

14 THE COURT: YOU KNOW, YOU COULD SAY, THERE ARE THREE
15 DEFENDANTS WHO ARE REFERRED TO AS THE 49ER DEFENDANTS AND LIST
16 ALL THREE OF THEM. AND SAY, THE 49ER DEFENDANTS ARE THE
17 DEFENDANTS IN THE CLAIMS -- IN THE DAMAGES CLASS CLAIMS, OR
18 HOWEVER YOU WANT TO DO IT. AND THEN SAY, AS FAR AS THE TWO
19 INJUNCTIVE RELIEF CLASSES, THE 49ER DEFENDANTS AND THE CITY OF
20 SANTA CLARA AND THE SANTA CLARA STADIUM AUTHORITY ARE THE
21 DEFENDANTS, OR SOMETHING LIKE THAT.

22 I THINK YOU COULD JUST SPELL THAT OUT. I THINK THAT
23 ACTUALLY WOULD BE HELPFUL.

24 MS. LAMPASONA: OKAY. GREAT.

25 THE COURT: OKAY. SO YOU WILL PUT THAT IN 6, PLEASE.

1 YOU WILL NAME THE PLAINTIFFS.

2 NOW I GUESS THE OTHER QUESTION I HAD, I THOUGHT IT WAS A
3 LITTLE BIT CONFUSING IN THAT, SO WE HAVE THE CLASS MEMBERS'
4 RIGHTS AND OPTIONS, AND THE ONLY OPTIONS THAT ARE CALLED OUT
5 FOR THEM ARE, YOU CAN SUBMIT A CLAIM FORM, YOU CAN OPT OUT, OR
6 YOU CAN DO NOTHING.

7 I DON'T THINK THERE'S ANYTHING UNDER THE DAMAGES CLASS
8 MEMBERS' RIGHTS AND OPTIONS, THERE'S NOTHING ABOUT HOW YOU
9 OBJECT. DO YOU SEE THAT?

10 SO UNDER DAMAGES OF CLASS MEMBERS' RIGHTS AND OBJECTIONS,
11 YOU HAVE NUMBER 10, WHAT ARE MY OPTIONS, YOU HAVE NUMBER 11,
12 FILE A CLAIM FORM, YOU HAVE NUMBER 12, HOW DO I OPT OUT, YOU
13 HAVE NUMBER 13, WHAT IF I DO NOTHING.

14 SO IT'S NOT EVEN CLEAR YOU CAN OBJECT. THEN YOU GO TO
15 RIGHTS AND OPTIONS OF OTHER CLASS MEMBERS WHICH JUST SAYS, 14,
16 WHAT IF I'M NOT PART OF THE DAMAGES CLASS.

17 AND THEN YOU HAVE THIS WHOLE OTHER SECTION SAYING, THE
18 LAWYERS REPRESENTING THE SETTLEMENT CLASS. DO I HAVE A LAWYER,
19 HOW WILL THE LAWYERS BE PAID.

20 AND THEN YOU HAVE THIS WHOLE OTHER SECTION WHICH SAYS,
21 OBJECTING TO THE SETTLEMENT, AND IT JUST SAYS, NUMBER 17, WHAT
22 IF I DON'T LIKE THE SETTLEMENT.

23 SO IT'S JUST THE WAY THAT THIS IS ORGANIZED, IT DOESN'T
24 EVEN MAKE IT SEEM LIKE OBJECTING IS AN OPTION FOR A DAMAGES
25 CLASS MEMBER OR AN INJUNCTIVE RELIEF CLASS MEMBER. I DON'T

1 KNOW WHY THERE'S THIS INTERVENING SECTION ABOUT THE LAWYERS
2 WHEN YOU'VE ALREADY PREVIOUSLY GONE THROUGH THE OPTIONS OF ALL
3 THREE CLASSES.

4 DOES THAT MAKE SENSE?

5 MS. LAMPASONA: YES.

6 THE COURT: I FEEL LIKE IT WOULD BE CLEARER AND
7 CLEANER TO PERHAPS LAY OUT, YOU KNOW, UNDER THE DAMAGES CLASS,
8 HERE ARE YOUR FOUR DIFFERENT OPTIONS.

9 NOW IF YOU FILE A CLAIM FORM, YOU CAN STILL OBJECT,
10 CORRECT? IF YOU OPT OUT, YOU CAN'T OBJECT BECAUSE YOU ARE OUT
11 OF THE CLASS. I ASSUME IF YOU DO NOTHING, YOU CAN ALSO OBJECT,
12 IS THAT RIGHT, "IF YOU CHOOSE TO FOREGO YOUR PAYMENT UNDER THE
13 MONETARY SETTLEMENT AWARD."

14 SO I THINK IT SHOULD BE CLEAR HERE, IF YOU ARE IN THE
15 DAMAGES CLASS, YOU HAVE THESE FOUR DIFFERENT OPTIONS, AND THE
16 RIGHT TO OBJECT APPLIES EVEN IF YOU FILE A CLAIM FORM OR YOU DO
17 NOTHING. BUT IF YOU EXCLUDE YOURSELF, YOU OBVIOUSLY CAN'T
18 OBJECT, YOU ARE OUT.

19 I THINK THAT WOULD BE HELPFUL TO LAY THAT OUT MORE CLEARLY
20 AND THEN HAVE THE RIGHT TO OBJECT, HOW DO I OBJECT, AS A
21 SECTION UNDER THE DAMAGES CLASS MEMBERS' OPTIONS.

22 IS THERE ANY OBJECTION TO THAT? IT JUST FEELS WEIRD TO
23 HAVE THAT WHOLE SECTION AFTER THE LAWYERS REPRESENTING THE
24 CLASS, WHICH HAS NOTHING TO DO, REALLY, WITH THE OPTIONS OF
25 EITHER SET OF EITHER THE INJUNCTIVE RELIEF CLASS OR THE DAMAGES

1 CLASS.

2 MS. LAMPASONA: NO OBJECTION.

3 THE COURT: YEAH.

4 ANY OBJECTION FROM THE PLAINTIFFS ON THAT?

5 MR. WALLACE: NO, YOUR HONOR.

6 THE COURT: OKAY.

7 SO -- AND THEN SIMILARLY, I WOULD LIKE FOR THE INJUNCTIVE
8 RELIEF CLASS, LET'S JUST CALL IT OUT, INSTEAD OF "RIGHTS OF
9 OTHER CLASS MEMBERS," I THINK THAT'S TOO VAGUE. I PREFER THAT
10 IT SAY, "RIGHTS AND OPTIONS OF," OR YOU COULD SAY "THE
11 INJUNCTIVE RELIEF CLASS MEMBERS AND COMPANION INJUNCTIVE RELIEF
12 CLASS MEMBERS' RIGHTS AND OPTIONS."

13 AND THEN SECTION 14, WHICH WILL HAVE TO BE RENUMBERED,
14 WILL SAY, "IF I'M A MEMBER OF THE INJUNCTIVE RELIEVE CLASS OR
15 THE COMPANION INJUNCTIVE RELIEF CLASS, BUT NOT THE DAMAGES
16 CLASS, WHAT ARE MY OPTIONS," AND THEN LAY THEM OUT.

17 AND RATHER THAN -- YOU KNOW, IN THE PAST, IN THE EARLIER
18 SECTIONS OF THIS SAME DOCUMENT, WE HAVE BEEN JUST SAYING, A
19 MONETARY AWARD FROM THE SETTLEMENT IN THIS CASE. I WOULD JUST
20 KEEP THAT LANGUAGE CONSISTENT, RATHER THAN SWITCHING SOMETIMES
21 USING THAT LANGUAGE AND OTHER TIMES USING "DAMAGES FUND." JUST
22 SAY "FROM THE SETTLEMENT IN THIS CASE."

23 OKAY. AND HERE TOO, I THINK IT SHOULD BE CLEARER THAT YOU
24 CAN OBJECT.

25 ALL RIGHT. CAN -- AND THEN IF WE MOVE ON INTO THE LAWYERS

1 REPRESENTING THE CLASS, I DON'T LIKE IT TO SAY "YOU WILL NOT BE
2 CHARGED FOR THESE LAWYER SERVICES." I THINK THE CLASS ALREADY
3 HAS BEEN CHARGED, BY VIRTUE OF THE FACT THEY CAN'T EVEN TOUCH
4 AND TRY TO GET ANY OF THE 13.46 MILLION. THEY HAVE ALREADY
5 PAID. THEY ARE ONLY GETTING 24 MILLION. THE LAWYERS WANT
6 56 PERCENT OF THAT. THEY HAVE ALREADY PAID.

7 SO I THINK IT'S A MIRAGE TO SAY, LOOK, YOU ARE NOT BEING
8 CHARGED, IT'S NOT AFFECTING YOUR PAYMENTS, IT'S NOT AFFECTING
9 YOUR PAYOUT AT ALL.

10 WELL, THEY HAVE HAD NO OPPORTUNITY TO EVEN HAVE THAT
11 HAPPEN SINCE YOU ALL HAVE SEPARATED THE FUNDS INTO ATTORNEY'S
12 FEES AND CLASS MEMBERS DAMAGES. SO I WANT THAT OUT. I THINK
13 IT'S NOT ACCURATE.

14 MR. WALLACE: YOUR HONOR, ON THAT POINT, IF I MAY BE
15 HEARD.

16 THE COURT: YEAH.

17 MR. WALLACE: JUST AS A FACTUAL MATTER, WE NEGOTIATED
18 THE DAMAGES FUND FOR THE CLASS MEMBERS WITH MR. RUBY, THE
19 MEDIATOR'S PROPOSAL TO RESOLVE THAT. IN THE SPRING OF 2019, I
20 THINK IT WAS MARCH OR APRIL, FEES WERE NOT DISCUSSED OR
21 RESOLVED UNTIL SIX MONTHS LATER IN THE FALL.

22 AND SO JUST SOME OF THE COMMENTARY FROM THE COURT --

23 THE COURT: RIGHT. AND YOU ARE SAYING YOU NEVER
24 DISCUSSED ATTORNEYS FEES AT ALL IN THE SETTLEMENT DISCUSSIONS
25 WITH THE MEDIATOR. I FIND THAT REALLY HARD TO BELIEVE. FROM

1 THE DEFENDANTS, THEY NEED TO KNOW WHAT THEIR MAXIMUM EXPOSURE
2 IS.

3 MR. WALLACE: WE DID NOT, YOUR HONOR. WE LEFT THAT
4 UNTIL LAST, AND IT WAS DISCUSSED QUITE SEPARATELY FROM THE
5 MAJOR INJUNCTIVE RELIEF ISSUES AND FROM THE AMOUNT OF DAMAGES
6 FROM THE CLASS.

7 MS. LAMPASONA: WITHOUT DISCLOSING MEDIATION
8 PRIVILEGED INFORMATION, YOUR HONOR, I WOULD SAY THAT WE AGREE
9 WITH THE COURT THAT THE DEFENDANTS' PERSPECTIVE ON THIS WAS A
10 GLOBAL SETTLEMENT, EVEN THOUGH I AGREE WITH MR. WALLACE THAT
11 THE PLAINTIFFS WERE ADAMANT ABOUT NOT DISCUSSING SPECIFIC
12 NUMBERS RELATED TO THE ATTORNEY'S FEES UNTIL AFTER THE DAMAGES
13 HAD BEEN SETTLED.

14 BUT FROM THE DEFENSE PERSPECTIVE, WE WERE ALWAYS LOOKING
15 AT THIS AS, WHAT'S THE GLOBAL NUMBER, IT'S JUST PART OF THE
16 REASON WHY WE'VE AGREED TO THE DAMAGES THAT WE HAVE AS WELL AS
17 THE ATTORNEY'S FEES THAT WE HAVE. BUT THEY WERE VERY CAREFUL
18 ABOUT NOT NEGOTIATING THE FEES BEFORE THE DAMAGES WAS RESOLVED.

19 THE COURT: UH-HUH. AND I ASSUME FROM THE
20 DEFENDANT'S PERSPECTIVE, YOU ARE NOT UNAWARE THAT MOST
21 PLAINTIFFS ALWAYS ASK FOR 33 PERCENT OF THE TOTAL FUND,
22 CORRECT?

23 MS. LAMPASONA: CORRECT.

24 THE COURT: YEAH. SO EVEN IF THEY NEVER SAID A
25 NUMBER, IF THEY ASK FOR THE DAMAGES, YOU CAN DO THE CALCULATION

1 TO FIGURE OUT WHAT 33 PERCENT WOULD BE, ROUGHLY, FOR ATTORNEY'S
2 FEES, CORRECT?

3 MS. LAMPASONA: WE THOUGHT WE KNEW WHAT THE NUMBER
4 WOULD BE, CLOSE TO IT, YOUR HONOR.

5 THE COURT: YEAH. AND WERE YOU PRETTY RIGHT?

6 MS. LAMPASONA: IN THE RANGE, YES.

7 THE COURT: YEAH. OKAY. SO, I MEAN, WE ALL KNOW HOW
8 THIS WORKS.

9 SO ANYWAY, I JUST THINK, OBVIOUSLY I WOULD NOT WITHHOLD
10 APPROVAL BASED ON THIS, BUT I FEEL LIKE IF IT'S NOT NEGOTIATED
11 THIS WAY, WHERE THE MONEY IS COMING FROM A SEPARATE POOL, SO
12 ANY MONEY THAT GOES TO THE LAWYERS, WILL NOT GO TO THE CLASS,
13 IS DONE SPECIFICALLY TO MAXIMIZE MONEY GOING TO THE CLASS
14 COUNSEL.

15 AND I CAN UNDERSTAND, FROM COUNSEL'S PERSPECTIVE, WHY YOU
16 WANT TO DO THAT. I THINK AS FAR AS WHAT WILL BE BENEFICIAL TO
17 THE CLASS, I THINK IT'S BENEFICIAL TO THE CLASS THAT THEY HAVE
18 THE OPTION TO HAVE, AT THE COURT'S DISCRETION, MORE OF THE
19 MONEY BE GIVEN TO THEM VERSUS HAVING A SEPARATE POT OF MONEY
20 THAT ONLY GOES TO THE LAWYERS FOR THE PLAINTIFFS OR GOES BACK
21 TO THE DEFENDANTS.

22 AND I WOULD SAY THAT IS AN OUTLIER IN TERMS OF THE
23 SETTLEMENT. MOST OF THE SETTLEMENTS TO NOT HAVE THIS SEPARATE
24 POT OF MONEY THAT CAN'T BE TOUCHED AND CANNOT GO TO THE CLASS.
25 SO MOST OF THE SETTLEMENTS I SEE DO NOT DO IT THIS WAY.

1 ANYWAY. ALL RIGHT. SO LET'S KEEP GOING.

2 SO I WOULD LIKE TO TAKE OUT ALL OF THIS, "THEY WILL NOT
3 COME OUT OR OTHERWISE REDUCE THE DAMAGES FUND AND WILL NOT
4 AFFECT MONETARY PAYMENTS TO ANY OF THE DAMAGES CLASS MEMBERS"
5 BECAUSE I THINK I'VE SAID ENOUGH ON THIS POINT. I DON'T THINK
6 IT'S -- I DON'T THINK IT'S ACCURATE. THE EFFECT HAS ALREADY
7 BEEN DONE. YOU ARE NOT GIVING THE COURT'S DISCRETION TO DO
8 ANYTHING DIFFERENT AND YOU ARE NOT GIVING THE CLASS ANY OPTION
9 TO BE ABLE TO FILE AN OBJECTION THAT WOULD MAKE ANY DIFFERENCE
10 BECAUSE YOU'VE SEPARATED THE POTS OF MONEY THIS WAY.

11 SO I THINK IT'S NOT ACCURATE AND I'M NOT GOING TO APPROVE
12 ANY LANGUAGE LIKE THAT, SO THAT SHOULD BE TAKEN OUT OF WHAT'S
13 NOW PARAGRAPH 16.

14 ALL RIGHT. THEN IN PARAGRAPH -- WHAT'S NOW PARAGRAPH 17,
15 WHICH IT'S NOT EVEN LABELED "HOW DO I OBJECT TO THE SETTLEMENT"
16 BUT IT SHOULD BE, IT JUST SAYS "WHAT IF I DON'T LIKE THE
17 SETTLEMENT." IF YOU WOULD PLEASE HAVE THOSE OBJECTIONS MAILED
18 TO THE SETTLEMENT ADMINISTRATOR. AND JUST KEEP IN SECTION 18,
19 "PART OF THE SETTLEMENT," INSTEAD OF A "PORTION OF THE
20 SETTLEMENT."

21 AND THEN IN PARAGRAPH 19, SOMETIMES YOU REFER TO THESE AS
22 INCENTIVE AWARDS, SOMETIMES YOU REFER TO THEM AS SERVICE
23 AWARDS. I WOULD JUST SAY LET'S KEEP IT CONSISTENT, TITLE FOR
24 THESE PAYMENTS. HOW ARE THEY DEFINED IN THE SETTLEMENT
25 AGREEMENT, YOU MIGHT AS WELL JUST USE THE SAME LANGUAGE.

1 WHETHER THAT'S SERVICE AWARD OR INCENTIVE AWARDS, LET'S JUST
2 MAKE IT CONSISTENT. EARLIER IN THIS DOCUMENT THEY ARE CALLED
3 SERVICE AWARDS, BUT IN PARAGRAPH 19 THEY ARE CALLED INCENTIVE
4 AWARDS, SO IF YOU COULD JUST MAKE THAT GLOBALLY CONSISTENT,
5 THAT'S FINE.

6 IN PARAGRAPH 20, I WOULD JUST SAY WHERE IT SAYS "YOU ARE
7 WELCOME TO ATTEND THE HEARING AT YOUR OWN EXPENSE," WHY DON'T
8 WE JUST SAY "YOU OR YOUR OWN LAWYER ARE WELCOME TO ATTEND THE
9 HEARING AT YOUR OWN EXPENSE," SO THEY KNOW THEY WILL HAVE TO
10 PAY FOR IT.

11 YOU COULD EVEN ADD -- ACTUALLY, THAT LAST SENTENCE SAYS
12 "YOU MAY ALSO PAY YOUR OWN LAWYER TO ATTEND THE HEARING BUT
13 IT'S NOT NECESSARY." MAYBE YOU CAN SAY "YOU OR YOUR OWN LAWYER
14 ARE WELCOME TO ATTEND THE HEARING AT YOUR OWN EXPENSE, BUT YOUR
15 ATTENDANCE IS NOT NECESSARY" OR SOMETHING LIKE THAT, JUST SO
16 IT'S CLEAR THEY KNOW THEY DON'T HAVE TO COME, BUT THEY ARE
17 WELCOME TO.

18 AND THEN ON PARAGRAPH 21, "HOW DO I GET MORE INFORMATION"
19 I THINK IT WOULD BE VERY HELPFUL IN THIS SECTION TO IDENTIFY
20 PLAINTIFF COUNSEL BY NAME, ADDRESS, E-MAIL, TELEPHONE NUMBER,
21 AS WELL AS THE SETTLEMENT ADMINISTRATOR. BECAUSE I SAW IN THE
22 SHORT FORM NOTICE, YOU DO WANT TO MAKE THE SETTLE ADMINISTRATOR
23 AVAILABLE TO ANSWER ANY QUESTIONS, SO I THINK IT WOULD BE
24 HELPFUL IN THE "HOW I DO GET MORE INFORMATION" PART, TO VERY
25 EASILY FIND WHO TO CONTACT IN CASE THE PERSON HAS A QUESTION.

1 SO IF YOU WOULD ADD THAT, PLEASE, HERE. BECAUSE RIGHT
2 NOW, THE ONLY INFORMATION HERE IS THE COURT, BUT THEN IT SAYS
3 DON'T CONTACT THE COURT. SO IF SOMEONE GOES TO 21, IT WOULD BE
4 GREAT IF THEY COULD EASILY FIND THE CONTACT INFORMATION NAME
5 FOR SOMEONE TO GET IN TOUCH WITH FOR MORE INFORMATION.

6 SO DO THOSE CHANGES SOUND ACCEPTABLE?

7 MS. LAMPASONA: YES, YOUR HONOR.

8 THE COURT: DOES THAT SOUND ACCEPTABLE.

9 MR. WALLACE: YES, YOUR HONOR.

10 THE COURT: OKAY. SO IF YOU MAKE THOSE CHANGES, I
11 WILL APPROVE THIS SETTLEMENT. HOW LONG DO YOU THINK IT WOULD
12 TAKE TO MAKE THOSE CHANGES TO ALL THREE FORMS? I WOULD LIKE A
13 NEW CLAIM FORM, PLEASE, A NEW SHORT FORM NOTICE AND A NEW LONG
14 FORM NOTICE, PLEASE.

15 MR. WALLACE: I THINK WE CAN DO ALL OF THAT IN TEN
16 DAYS, YOUR HONOR.

17 THE COURT: OKAY. WELL, LET'S SEE, WHAT IS TODAY,
18 TODAY IS THE 30TH, IS THAT RIGHT? SO YOU WANT UNTIL
19 FEBRUARY 10TH?

20 MR. WALLACE: THAT SOUNDS GOOD.

21 MS. LAMPASONA: YOUR HONOR, IF WE COULD JUST PUSH IT
22 OUT ONE MORE WEEK. I NEED TO RUN BY THE CHANGES BY MY CLIENT,
23 AND IT'S GOING TO BE VERY DIFFICULT TO GET ANYBODY'S ATTENTION
24 AT THE FORTY NINERS IN THE NEXT WEEK OR SO.

25 THE COURT: OH, GOOD POINT, GOOD POINT.

1 MS. LAMPASONA: AND HOPEFULLY EVERYONE WILL BE
2 ATTENDING A PARADE NEXT WEEK TOO.

3 THE COURT: THAT'S A GOOD POINT.

4 SO DO YOU WANT TO SAY THE 14TH OR THE 17TH?

5 MS. LAMPASONA: THE 17TH WOULD BE GREAT, YOUR HONOR.
6 THANK YOU.

7 THE COURT: OKAY. LET'S DO -- AND I'M SORRY THAT
8 THIS HEARING IS SO FAR OUT, I'M SORRY THAT YOU ARE HAVING TO
9 WAIT FOR THIS APPROVAL.

10 SO FEBRUARY 17TH OF 2020. IF YOU WOULD PLEASE FILE NEW
11 DOCUMENTS. AND I WILL TRY TO REVIEW IT REALLY -- WELL, I WILL
12 TRY BY MAYBE WEDNESDAY THE 19TH, TRY TO REVIEW THIS, OR THE
13 20TH, OKAY.

14 SO IF YOU GET PRELIMINARY APPROVAL, LET'S JUST SAY BY
15 FEBRUARY 20TH, THEN LET'S GO AHEAD AND FIGURE OUT WHAT THE
16 DEADLINES ARE. YOU WILL DO THE CAFA NOTICE TEN DAYS AFTER
17 THAT, THEN 14 DAYS, FOUR DAYS LATER YOU WILL PROVIDE UPDATED
18 CONTACT INFORMATION, THEN YOU WILL DISTRIBUTE, SEVEN DAYS AFTER
19 THAT, THE NOTICES.

20 MS. LAMPASONA: THE DEFENDANTS REQUEST A LITTLE MORE
21 TIME, YOUR HONOR, FOR PROVIDING THE UPDATED CONTACT INFORMATION
22 AND FOR THE NOTICE PERIOD OF TIME AS WELL.

23 THE COURT: OKAY. LET'S FIGURE OUT, LET'S JUST GO
24 THROUGH THE DATES NOW, AND I WOULD LIKE TO GIVE YOU A FINAL
25 APPROVAL HEARING TO MAKE SURE THAT YOU'RE AVAILABLE ON THAT

1 DATE. SO WHAT DO YOU NEED FOR WHICH DAYS?

2 MS. LAMPASONA: WE WOULD REQUEST, PLEASE, 30 DAYS FOR
3 THE CONTACT INFORMATION AND 60 DAYS FOR THE NOTICE PROVISION.

4 THE COURT: WHY IS THAT?

5 MS. LAMPASONA: THE EXTRA TIME NECESSARY FOR THE
6 CONTACT INFORMATION IS JUST THE EFFORT THAT IT TAKES TO GET THE
7 CONTACT INFORMATION ORGANIZED.

8 WE ARE NOT JUST PULLING INFORMATION FROM THE TICKETING,
9 BUT WE ARE ALSO SEARCHING E-MAILS FOR PEOPLE WHO HAVE E-MAILED
10 THE ACCESS HELP AT LEVI STADIUM, THAT'S THE ARRANGEMENT THAT WE
11 HAVE MADE WITH PLAINTIFF'S COUNSEL IN TERMS OF TRYING TO
12 IDENTIFY THE MAXIMUM CLASS MEMBERS. AND JUST THE E-MAIL SEARCH
13 DOES TAKE A LITTLE WHILE.

14 THE COURT: BUT DIDN'T YOU ALL -- THESE DATES ARE
15 WHAT THE PARTIES PROPOSED. DIDN'T YOU ALREADY APPROVE THESE
16 INTERVALS? AND IN FACT, THIS MOTION WAS FILED IN OCTOBER. I
17 REALLY APOLOGIZE THAT IT'S TAKEN UNTIL THE END OF JANUARY TO
18 GIVE YOU A HEARING, BUT YOU'VE ALREADY HAD ALMOST FOUR MONTHS
19 TO DO THIS.

20 AND AS IT IS, YOU WILL HAVE, TODAY IS JANUARY 30TH, AS IT
21 IS, YOU WILL HAVE -- IF I APPROVE THIS ON FEBRUARY 20TH, YOU
22 WILL HAVE UNTIL MARCH 5TH. YOU DON'T THINK YOU COULD GET THAT
23 DONE IN TIME?

24 MS. LAMPASONA: I WAS JUST ASKING FOR MORE TIME. WE
25 WILL GET IT DONE IN WHATEVER THE COURT REQUIRES US TO,

1 YOUR HONOR.

2 THE COURT: WELL, I'M SORRY, BUT I PREFER TO KEEP THE
3 DEADLINES THAT YOU AGREED TO. AND YOU HAD AGREED TO GIVE THE
4 UPDATED CONTACT INFORMATION 14 DAYS AFTER PRELIMINARY APPROVAL.
5 SO IF I GIVE PRELIMINARY APPROVAL ON FEBRUARY 20TH, THEN YOU
6 WILL BE FILING ON MARCH 5TH.

7 MS. LAMPASONA: UNDERSTOOD, YOUR HONOR.

8 THE COURT: IS THAT -- OKAY.

9 AND THEN THAT MEANS YOU WOULD BE GIVING THE NOTICE THROUGH
10 POSTING AND DISTRIBUTION AND PUBLICATION BY MARCH 12TH. AND
11 THEN THE PLAINTIFFS WOULD FILE THEIR MOTION MARCH 19TH.

12 SO ASSUMING PRELIMINARY APPROVAL IS FEBRUARY 20TH, THEN --
13 OKAY. SO OBJECTING OR OPTING OUT WOULD BE -- IF THE NOTICE IS
14 MARCH 12TH, SO THAT WOULD BE 45 DAYS AFTER THAT.

15 CAN I ASK, HOW COME THE CLAIM FORM DEADLINE IS 90 DAYS
16 AFTER NOTICE BUT THE OBJECTION OR OPTING OUT DEADLINE IS
17 45 DAYS AFTER NOTICE? WHY IS IT DONE THAT WAY?

18 DON'T WE WANT PEOPLE TO MAKE A DECISION ABOUT WHETHER THEY
19 ARE GOING TO OPT OUT OR FILE A CLAIM FORM AT ABOUT THE SAME
20 TIME, VERSUS SOMEONE FILING THEIR OPT OUT AND THEN 45 DAYS
21 LATER FILING A CLAIM?

22 MR. WALLACE: YEAH, WE CAN TIGHTEN THAT, YOUR HONOR.

23 THE COURT: WHY ARE PEOPLE GIVEN MUCH LESS TIME TO
24 OBJECT OR OPT OUT? THEY ARE GIVEN HALF THE TIME, 45 DAYS
25 VERSUS 90 DAYS TO FILE A CLAIM.

1 MR. WALLACE: WE COULD MAKE THAT THE SAME DATE IF
2 YOUR HONOR WISHES.

3 THE COURT: WHY DON'T WE MAKE THAT THE SAME DATE JUST
4 SO PEOPLE DON'T GIVE US CONFLICTING INFORMATION, GIVE US AN OPT
5 OUT AND THEN GIVE US A CLAIM.

6 SO THAT WOULD BE, IF THE NOTICE GOES OUT ROUGHLY ON THE
7 12TH OF MARCH -- OH, THAT WOULD NOT BE UNTIL JUNE, THAT'S
8 PRETTY LATE. LET'S SAY ROUGHLY, LIKE, JUNE 11TH.

9 WHY WERE 90 DAYS GIVEN? I MEAN, IT'S FINE, BUT LET ME
10 JUST UNDERSTAND.

11 MR. WALLACE: I THINK IT WAS MOSTLY TO GIVE PEOPLE A
12 LONGER OPPORTUNITY TO FILE A CLAIM.

13 THE COURT: OKAY.

14 MR. WALLACE: I WOULD THINK THAT -- WE DON'T THINK
15 THE CLAIM FORM IS TOO DIFFICULT, YOUR HONOR. SO PEOPLE WHO
16 WANTED TO MAKE A CLAIM, THEY SHOULD BE ABLE TO GET THAT IN.

17 THE COURT: WELL, I'M OKAY -- ARE THESE DATES IN THE
18 SETTLEMENT, BECAUSE THEN YOU WOULD HAVE TO AMEND YOUR
19 SETTLEMENT AGREEMENT. I THINK YOU ARE GOING TO HAVE TO AMEND
20 YOUR SETTLEMENT AGREEMENT JUST TO HAVE YOUR OBJECTIONS MAILED
21 TO THE SETTLEMENT ADMINISTRATOR.

22 SO I HOPE YOUR PROCESS TO AMEND IS EASY AND DOESN'T
23 REQUIRE CLIENT SIGNATURES, BUT I WILL LET YOU LOOK AT THAT, OR
24 SHOULD WE LOOK AT IT RIGHT NOW?

25 MR. WALLACE: WE DON'T BELIEVE THAT THAT SCHEDULE IS

1 INCORPORATED IN THE SETTLEMENT, YOUR HONOR.

2 MS. LAMPASONA: NO, YOUR HONOR, IT'S SPECIFICALLY NOT
3 INCLUDED.

4 THE COURT: WHAT ABOUT MAILING THE OBJECTIONS? THAT
5 MIGHT REQUIRE -- YEAH. UNFORTUNATELY, THE OBJECTIONS HAVE TO
6 BE EITHER E-FILED OR MAILED TO THE -- FILED IN PERSON OR ON ECF
7 OR MAILED. SO THAT, UNFORTUNATELY, IS IN THE AGREEMENT.

8 I'M WONDERING IF THE OTHERS -- I DON'T SEE ANY PROVISION
9 ABOUT AMENDING THE AGREEMENT. I'M WONDERING IF YOU COULD DO AN
10 ADDENDUM WITH THESE CHANGES, THEN FILE IT AS AN AMENDMENT TO
11 THE AGREEMENT.

12 MR. WALLACE: I DON'T SEE WHY WE COULDN'T DO THAT,
13 YOUR HONOR.

14 THE COURT: ALL RIGHT. IF YOU WOULD, PLEASE.

15 OKAY. SO I'M OKAY, WE CAN KEEP THESE DATES.

16 SO IF THAT'S JUNE 11TH, THEN HOW MUCH TIME AFTER YOU GET
17 THE OBJECTIONS AND OPT-OUTS AND THE CLAIM FORMS WOULD YOU LIKE
18 TO FILE THE FINAL APPROVAL MOTION AND RESPOND TO THOSE? HOW
19 MUCH TIME DO YOU THINK YOU WOULD LIKE?

20 MR. WALLACE: YOU KNOW, YOUR HONOR, USUALLY I THINK
21 WE DO SOMETHING LIKE TWO OR THREE WEEKS.

22 THE COURT: OKAY. SO IF THAT'S JUNE 11TH, THEN YOU
23 WANT TO FILE LIKE ON EITHER JUNE 25TH OR JULY 2ND?

24 MR. WALLACE: JULY 2ND SOUNDS GOOD, YOUR HONOR.

25 THE COURT: OKAY. SO IF YOU FILE THAT THEN JULY 2ND,

1 THEN I WOULD LIKE -- LET ME ASK WHETHER MAYBE JULY 16TH OR 23RD
2 OF 2020 IS AVAILABLE FOR A FINAL APPROVAL HEARING, PLEASE.

3 THE CLERK: JULY 16TH IS AVAILABLE.

4 THE COURT: ARE YOU AVAILABLE ON THE 16TH OF JULY?

5 MR. WALLACE: YES, I AM, YOUR HONOR. YES, WE ARE.

6 MS. LAMPASONA: YES, YOUR HONOR.

7 THE COURT: DOES THAT WORK FOR EVERYBODY?

8 MR. CREECH: YES, YOUR HONOR.

9 THE COURT: OKAY. SO THEN LET'S HAVE THAT BE FINAL
10 APPROVAL, PLEASE, AND THAT WILL BE AT 1:30.

11 AND THEN THE DEADLINE FOR THE SETTLEMENT ADMINISTRATOR, I
12 GUESS THAT WILL FALL OFF AFTER THE JUNE 11TH DEADLINE, SO
13 THAT'S FINE.

14 IS THAT OKAY TO HAVE THE 90 DAYS FOR THE SETTLEMENT
15 ADMINISTRATOR TO REVIEW AND DETERMINE THE VALIDITY OF CLAIMS
16 WOULD BE 90 DAYS FROM JUNE 11TH, EVEN THOUGH YOU WON'T GET
17 FINAL APPROVAL UNTIL, LIKE, MID TO LATE JULY. IS THAT ALL
18 RIGHT? IS THAT OKAY?

19 MR. WALLACE: I THINK SO.

20 MS. LAMPASONA: THAT'S FINE, YOUR HONOR.

21 THE COURT: OKAY.

22 ALL RIGHT. SO I'M GOING TO KEEP YOUR DEADLINES WITH THE
23 EXCEPTION THAT THE OPT OUT OR OBJECT WOULD BE AT THE SAME TIME
24 AS CLAIMING FORMS DEADLINE -- THE DEADLINE TO FILE CLAIM FORMS,
25 SO THAT WE DON'T GET INCONSISTENT DOCUMENTS FROM A CLASS

1 MEMBER. AND THEN I WILL SET THE HEARING FOR JULY 16TH.

2 OKAY. SO WHAT ELSE DO WE NEED TO DO TODAY? DID YOU GET
3 ALL THE CHANGES THAT I WANTED ON THE DIFFERENT FORMS?

4 MS. LAMPASONA: YES, YOUR HONOR.

5 THE COURT: OKAY. ALL RIGHT. I MEAN, I WAS GOING TO
6 FILE A RED LINE VERSION, BUT SOME OF THESE ARE STRUCTURAL, AND
7 SO I THOUGHT I SHOULD DEFER TO THE PARTIES TO FIGURE OUT HOW
8 YOU WANT TO DO IT, IF THAT'S OKAY. BUT OTHERWISE, I PLAN TO
9 APPROVE THIS SETTLEMENT AS SOON AS WE MAKE THESE NITS TO THE
10 DOCUMENTS; IS THAT ALL RIGHT?

11 MS. LAMPASONA: UNDERSTOOD, YOUR HONOR.

12 MR. WALLACE: YES, YOUR HONOR.

13 THE COURT: ALL RIGHT. SO I DON'T THINK WE NEED ANY
14 FURTHER HEARING. AS SOON AS I SEE THOSE DOCUMENTS, I WILL GO
15 AHEAD AND GIVE PRELIMINARY APPROVAL, AND WE WILL ASSUME THEN
16 THAT THE FINAL APPROVAL HEARING WILL BE JULY 16TH.

17 MR. LEE: MAY I ASK ONE QUESTION, YOUR HONOR?

18 THE COURT: YES, PLEASE, GO AHEAD.

19 MR. LEE: WITH RESPECT TO THE FEE MOTION.

20 THE COURT: YES.

21 MR. LEE: WHAT INFORMATION WOULD THE COURT LIKE
22 REGARDING OUR BILLING RECORDS AND HOW WOULD YOU LIKE THAT
23 INFORMATION PRESENTED?

24 THE COURT: OH, OKAY. SO I LIKED THE DETAILED
25 BILLING RECORDS.

1 MR. LEE: OKAY.

2 THE COURT: I HOPE YOU HAVE, LIKE, CONTEMPORANEOUSLY
3 RECORDED.

4 MR. LEE: YES.

5 THE COURT: SO I WOULD LIKE TO SEE, I MEAN, I GUESS
6 IT'S GOING TO BE PROBABLY QUITE VOLUMINOUS, BUT I WOULD LIKE TO
7 SEE IT, ESPECIALLY BECAUSE THE REQUEST IS QUITE LARGE.

8 SO I WOULD LIKE TO SEE IT ALL. DETAILED BILLING RECORDS,
9 BY TASK, BY TIME BILLED.

10 MR. LEE: WHEN YOU SAY BY TASK, DID YOU MEAN BY
11 CODING OR --

12 THE COURT: NO, I WANT WHATEVER -- WHATEVER YOUR
13 CONTEMPORANEOUS BILLING RECORDS ARE, WHATEVER EACH BILLER DID
14 FOR EVERY DAY, HOW DID THEY KEEP THEIR RECORDS.

15 I DON'T WANT YOU TO CREATE ANYTHING NEW FOR ME, I WANT TO
16 SEE WHATEVER THEY ACTUALLY BILLED. AND HOW THEY DESCRIBED
17 THEIR WORK AND HOW MUCH TIME THEY BILLED FOR EACH TASK.

18 IS THAT HOW THE RECORDS ARE KEPT?

19 MR. LEE: THAT'S HOW --

20 MR. WALLACE: YES, THAT IS HOW THEY ARE MAINTAINED,
21 YOUR HONOR.

22 AND THEN AS PART OF OUR BILLING JUDGMENT, WE WOULD
23 INDICATE WHERE BILLINGS ARE CHANGED OR REDUCED.

24 THE COURT: OKAY. IF YOU COULD LET ME KNOW IF THERE
25 ARE CERTAIN THINGS YOU WROTE OFF OR REDUCED OR WHAT WAS DELETED

1 AND WHY.

2 MR. WALLACE: WE WILL DO THAT, YOUR HONOR.

3 THE COURT: OKAY. THANK YOU. I APPRECIATE THAT.

4 WHAT ELSE? ANY OTHER INFORMATION I CAN PROVIDE FOR HOW I
5 DO FINAL APPROVAL?

6 MS. LAMPASONA: I HAVE NO QUESTIONS, YOUR HONOR.

7 THE COURT: OKAY. AND I WOULD LIKE TO KNOW, SINCE
8 THIS WAS LITIGATED OVER A NUMBER OF YEARS, LIKE WHAT WERE YOUR
9 BILLING RATES, I ASSUME YOU CHANGED YOUR RATES, WHAT WAS THE
10 CHANGE, WHO HAS APPROVED THOSE RATES FOR EACH BILLER.

11 MR. WALLACE: WE CAN DO THAT, YOUR HONOR, ABSOLUTELY.

12 THE COURT: THANK YOU.

13 I DO TAKE A REALLY CLOSE LOOK AT FEES, AND COSTS AS WELL.
14 I LIKE TO KNOW, I WOULD LIKE INVOICES. YOU KNOW, I HAD ALL
15 THESE WAGE-AN-HOUR CASES OF ALL THESE LAWYERS COMING FROM L.A.,
16 AND ALL THEIR FLIGHTS WERE OVER \$500. AND I FLY TO L.A. FOR
17 LESS THAN \$200. IT TURNS OUT THEY ARE ALL FLYING FIRST CLASS
18 FROM SAN JOSE TO LAX.

19 MR. WALLACE: WE TYPICALLY PROVIDE ALL THE BACKUP,
20 YOUR HONOR.

21 THE COURT: PERFECT.

22 SO THAT'S WHY I'VE STARTED, IN THOSE CASES, TO ASK FOR THE
23 BACK UP, AND IT TURNS OUT SOMETIMES THEY DOUBLE BILLED HOTELS,
24 I THINK BY ACCIDENT, BUT WHEN I GET THE BACKUP IS WHEN I CAN
25 SEE SOME OF THOSE THINGS.

1 BUT I -- YOU KNOW, AND MANY OF THOSE CASES, THEY WERE
2 MINIMUM WAGE WORKERS GETTING PENNIES ON THE DOLLAR, AND I JUST
3 DIDN'T THINK IT WAS APPROPRIATE FOR THEIR LAWYERS TO CONSTANTLY
4 BE FLYING FIRST CLASS FOR A 55-MINUTE FLIGHT, SO I DIDN'T
5 REIMBURSE THEM FOR THE FULL AMOUNTS.

6 SO ANYWAY, YES, IF YOU WOULD PLEASE PROVIDE THE BACKUP ON
7 THE COSTS.

8 WHAT ELSE? ANYTHING ELSE?

9 MR. WALLACE: I DON'T THINK THERE'S ANYTHING FURTHER
10 FOR PLAINTIFFS, YOUR HONOR.

11 THE COURT: OKAY. ALL RIGHT. WELL, THANK YOU ALL
12 VERY MUCH. THANK YOU ALL.

13 AND THEN GO AHEAD, PLEASE SEND ME THE DOCUMENTS, I WILL
14 GRANT PRELIMINARY APPROVAL, AND THEN I WILL SEE YOU FOR THE
15 FINAL APPROVAL HEARING.

16 OKAY. THANK YOU ALL. THANK YOU VERY MUCH.

17 MR. WALLACE: THANK YOU, YOUR HONOR.

18 MS. LAMPASONA: THANK YOU, YOUR HONOR.

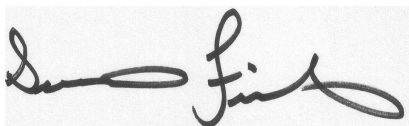
19 THE COURT: TAKE CARE. THANK YOU.

20 (THE PROCEEDINGS WERE CONCLUDED AT 2:45 P.M.)
21
22
23
24
25

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT
REPORTER OF THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
TRANSCRIPTION TO THE BEST OF MY ABILITY.

A handwritten signature in black ink, appearing to read "Summer A. Fisher", is written over a light gray rectangular background.

SUMMER A. FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

DATED: 1/31/20